

Luz Escamilla proposes the following substitute bill:

School Discipline Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill regulates the use of emergency safety interventions on a student in a school.

Highlighted Provisions:

This bill:

- consolidates and clarifies existing school physical intervention provisions into a single section of code;
- requires the State Board of Education to establish administrative rules for physical intervention in schools;
- establishes standards for use of physical restraint in schools;
- defines allowed incidences of seclusion in schools;
- requires local education agencies to collect and report data on incidents of student confinement;
- provides for investigation and enforcement requirements;
- outlines liability protections and exceptions; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-203, as last amended by Laws of Utah 2024, Chapter 460

53G-8-203, as last amended by Laws of Utah 2024, Chapter 75

80-1-102, as last amended by Laws of Utah 2024, Chapter 256

REPEALS AND REENACTS:

29 **53G-8-301**, as renumbered and amended by Laws of Utah 2018, Chapter 3

30 REPEALS:

31 **53G-8-302**, as last amended by Laws of Utah 2019, Chapter 293

32 **53G-8-303**, as last amended by Laws of Utah 2022, Chapter 335

33 **53G-8-304**, as renumbered and amended by Laws of Utah 2018, Chapter 3

34 **53G-8-305**, as last amended by Laws of Utah 2019, Chapter 293

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **53E-1-203** is amended to read:

38 **53E-1-203 . State Superintendent's Annual Report.**

- 39 (1) The state board shall prepare and submit to the governor, the Education Interim
40 Committee, and the Public Education Appropriations Subcommittee, by January 15 of
41 each year, an annual written report known as the State Superintendent's Annual Report
42 that includes:
- 43 (a) the operations, activities, programs, and services of the state board;
 - 44 (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
 - 45 (c) data on the general condition of the schools with recommendations considered
46 desirable for specific programs, including:
 - 47 (i) a complete statement of fund balances;
 - 48 (ii) a complete statement of revenues by fund and source;
 - 49 (iii) a complete statement of adjusted expenditures by fund, the status of bonded
50 indebtedness, the cost of new school plants, and school levies;
 - 51 (iv) a complete statement of state funds allocated to each school district and charter
52 school by source, including supplemental appropriations, and a complete
53 statement of expenditures by each school district and charter school, including
54 supplemental appropriations, by function and object as outlined in the United
55 States Department of Education publication "Financial Accounting for Local and
56 State School Systems";
 - 57 (v) a statement that includes data on:
 - 58 (A) fall enrollments;
 - 59 (B) average membership;
 - 60 (C) high school graduates;
 - 61 (D) licensed and classified employees, including data reported by school districts
62 on educator ratings described in Section 53G-11-511;

- 63 (E) pupil-teacher ratios;
- 64 (F) average class sizes;
- 65 (G) average salaries;
- 66 (H) applicable private school data; and
- 67 (I) data from statewide assessments described in Section 53E-4-301 for each
- 68 school and school district;
- 69 (vi) statistical information for each school district and charter school regarding:
- 70 (A) student attendance by grade level;
- 71 (B) the percentage of students chronically absent;
- 72 (C) the percentage of student excused absences; and
- 73 (D) the percentage of student unexcused absences;
- 74 (vii) statistical information regarding incidents of delinquent activity in the schools,
- 75 at school-related activities, on school buses, and at school bus stops; and
- 76 (viii) other statistical and financial information about the school system that the state
- 77 superintendent considers pertinent.
- 78 (2)(a) For the purposes of Subsection (1)(c)(v):
- 79 (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of
- 80 students enrolled in a school by the number of full-time equivalent teachers
- 81 assigned to the school, including regular classroom teachers, school-based
- 82 specialists, and special education teachers;
- 83 (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio
- 84 of the schools within a school district;
- 85 (iii) the pupil-teacher ratio for charter schools aggregated shall be the median
- 86 pupil-teacher ratio of charter schools in the state; and
- 87 (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the
- 88 median pupil-teacher ratio of public schools in the state.
- 89 (b) The report shall:
- 90 (i) include the pupil-teacher ratio for:
- 91 (A) each school district;
- 92 (B) the charter schools aggregated; and
- 93 (C) the state's public schools aggregated; and
- 94 (ii) identify a website where pupil-teacher ratios for each school in the state may be
- 95 accessed.
- 96 (3) For each operation, activity, program, or service provided by the state board, the annual

report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4)(a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; [and]
(viii) the report described in Section 53G-8-203 by the state board on LEAs' policies and procedures related to physical restraint and interventions; and
[(viii)] (ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7)(a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 2. Section **53G-8-203** is amended to read:

53G-8-203 . Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section [53G-8-302] 53G-8-301;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(2)(a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b)(i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

(3)(a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

(i) prohibit students from possessing or using electronic cigarette products on school property;

(ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and

- 199 (iii) require a school administrator or school administrator's designee to dispose of or
200 destroy a confiscated electronic cigarette product.
- 201 (c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic
202 cigarette product to local law enforcement if:
- 203 (i) a school official has a reasonable suspicion that a confiscated electronic cigarette
204 product contains an illegal substance; and
- 205 (ii) local law enforcement requests that the LEA release the confiscated electronic
206 cigarette product to local law enforcement as part of an investigation or action.
- 207 (4)(a) Each LEA shall adopt a policy for responding to when a student has committed a
208 serious offense or sexual crime.
- 209 (b) The policy described in Subsection (4)(a) shall:
- 210 (i) address a serious offense or sexual misconduct related to hazing;
- 211 (ii) distinguish procedures for when the crime occurs on school property and off of
212 school property;
- 213 (iii) if a student has committed a serious offense or sexual crime, provide a process
214 for a school resource officer to provide input for the LEA to consider regarding
215 the safety risks a student may pose upon reintegration;
- 216 (iv) establish a process to inform a school resource officer of any student who is on
217 probation;
- 218 (v) create procedures for determining an alternative placement for a student if the
219 student attends the same school as:
- 220 (A) the victim of the student's crime; and
- 221 (B) an individual who has a protective order against the student; and
- 222 (vi) be compliant with state and federal law.

223 Section 3. Section **53G-8-301** is repealed and reenacted to read:

224 **53G-8-301 . Emergency Safety Interventions.**

- 225 (1) As used in this section:
- 226 (a) "Corporal punishment" means the intentional infliction of physical pain upon the
227 body of a student as a disciplinary measure.
- 228 (b) "Emergency safety intervention" means the use of seclusion or physical restraint
229 when a student presents an immediate danger to self or others.
- 230 (c) "Physical escort" means a temporary touching or holding of the hand, wrist, arm,
231 shoulder, or back for the purpose of guiding a student to another location.
- 232 (d) "Physical restraint" means a personal restriction that immobilizes or significantly

reduces the ability of a student to move the student's arms, legs, body, or head freely.

(e) "School" means a public or private elementary school, secondary school, or preschool.

(f) "Seclusion" means the same as that term is defined in Section 26B-2-101.

(g) "Student" means an individual who is:

(i) under the age of 19 and receiving educational services; or

(ii) under the age of 23 and receiving educational services as an individual with a disability.

(2)(a) A school employee shall first use the least restrictive intervention available to the school employee, including a physical escort, to address circumstances described in Subsection (4).

(b) Nothing in this section prohibits a school employee from subsequently using less intrusive interventions to address circumstances described in Subsection (4).

(3)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to:

(i) establish guidelines and best practices that consider individual student needs related to emergency safety interventions described in Subsection (10)(b);

(ii) establish intervention reporting requirements;

(iii) create school staff training standards that may be included in an existing training;

(iv) develop parental notification procedures;

(v) implement data collection and review processes;

(vi) establish investigation protocols;

(vii) establish data collection and reporting requirements for an LEA regarding:

(A) incidents of seclusion;

(B) alternative interventions used;

(C) student demographic information \hat{H} → , including sex, age, grade in school, and applicable disability status ← \hat{H} ; and

(D) incident outcomes.

(b) The state board shall include the information described in Subsection (3)(a) in the State Superintendent's Annual Report described in Section 53E-1-203.

(4) A school employee may use reasonable and necessary physical restraint only:

(a) in self defense;

(b) to obtain possession of a weapon or other dangerous object in the possession or under the control of a student;

(c) to protect a student or another individual from physical injury;

(d) to remove from a situation a student who is violent; or

(e) to protect property from being damaged, when physical safety is at risk.

(5)(a) A school employee may not inflict or cause the infliction of corporal punishment upon a student.

(b) The reporting and investigation requirements of Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, apply to complaints on corporal punishment.

(c) Evidence of corporal punishment that would qualify as reasonable discipline under Section 76-2-401 is insufficient to establish liability in a civil or criminal action.

(d) Subject to the Rules of Evidence, evidence of corporal punishment that exceeds reasonable discipline under Section 76-2-401 may be used by a court to establish civil or criminal liability.

(6) School authorities shall take prompt and appropriate action, including in-service training and other administrative action, upon confirming a violation of this section.

(7) The Division of Child and Family Services shall maintain all violation reports made in accordance with this section under the confidentiality requirements of Section 80-2-1005.

(8) A school or individual who makes a good faith report or cooperates in an investigation shall receive immunity from civil or criminal liability.

(9) A court with jurisdiction under Title 78A, Judiciary and Judicial Administration may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(10) A school:

(a) may not:

(i) enforce any rule, policy, or directive that permits acts prohibited by this section;

(ii) sanction an employee who refuses to commit a prohibited act; or

(iii) except as provided in Subsection (10)(b), use seclusion:

(A) as an intervention or disciplinary practice;

(B) for coercion, retaliation, or humiliation; or

(C) due to inadequate staffing or for the staff member's convenience.

(b) may use seclusion as an emergency safety intervention only when:

(i) the LEA has developed and implemented written policies and procedures that:

(A) describe the circumstances under which a staff member may use seclusion;

(B) describe which staff members are authorized to use seclusion;

(C) describe procedures for monitoring a student that is in seclusion;

(D) describe time limitations on the use of seclusion;

(E) require immediate and continuous review of the decision to use seclusion;

(F) require documenting the use of seclusion;

(G) describe record keeping requirements for records related to the use of seclusion; and

(H) require debriefing of all witnesses, involved staff members, the student who was secluded, and the parent of the student who was secluded;

(ii) a student poses an immediate and significant threat to the student or others; and

(iii) less restrictive interventions have failed;

(iv) a staff member who is familiar to the student is actively supervising the student for the duration of the seclusion; and

(v) the use is time-limited and monitored; and

(c) shall notify parents ~~Ĥ~~ → **[in a reasonable amount time]** immediately ~~[not to exceed 24 hours]~~ ← ~~Ĥ~~ of:

(i) any emergency safety intervention used on the parent's child, including seclusion or physical restraint; and

(ii) if seclusion was used, document the reason for its use, duration, and any alternative strategies attempted.

(11) An LEA shall collect and report data to the state board annually regarding:

(a) an incident; and

(b) for each incident, the:

(i) duration of an intervention used to respond to the incident;

(ii) stated purpose for any intervention used;

(iii) alternative interventions attempted;

(iv) student demographic information ~~Ĥ~~ → **, including sex, age, grade in school, and applicable disability status** ← ~~Ĥ~~ ; and

(v) relevant training offered to staff and if the staff involved received the relevant training without revealing the identity of the staff member.

(12) This section does not apply to:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) a parochial or private school that:

(i) does not receive state funds;

(ii) adopts a policy of exemption from this section; and

(iii) notifies the parents of students in the school of the exemption; or

(c) behavior reduction intervention which is in compliance with:

(i) Section 76-2-401; and

(ii) state and local rules adopted under Section 53E-7-204.

Section 4. Section **80-1-102** is amended to read:

80-1-102 . Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1)(a) "Abuse" means:

(i)(A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3)(a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition

- 366 or criminal information alleging that a minor committed an offense have been
367 proved;
- 368 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
369 or
- 370 (C) a plea of no contest by minor in the juvenile court; or
- 371 (ii) for all other proceedings under this title, a finding by the juvenile court that the
372 facts alleged in the petition have been proved.
- 373 (b) "Adjudication" does not include:
- 374 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
375 enters the minor's admission; or
- 376 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 377 (4)(a) "Adult" means an individual who is 18 years old or older.
- 378 (b) "Adult" does not include an individual:
- 379 (i) who is 18 years old or older; and
- 380 (ii) who is a minor.
- 381 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
382 78A-2-801.
- 383 (6) "Board" means the Board of Juvenile Court Judges.
- 384 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
385 years old.
- 386 (8) "Child and family plan" means a written agreement between a child's parents or
387 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 388 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 389 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 390 (11) "Child protection team" means a team consisting of:
- 391 (a) the child welfare caseworker assigned to the case;
- 392 (b) if applicable, the child welfare caseworker who made the decision to remove the
393 child;
- 394 (c) a representative of the school or school district where the child attends school;
- 395 (d) if applicable, the law enforcement officer who removed the child from the home;
- 396 (e) a representative of the appropriate Children's Justice Center, if one is established
397 within the county where the child resides;
- 398 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
399 with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12)(a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13)(a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under

Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39)(a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

- (45)(a) "Intake probation" means a minor is:
- (i) monitored by a juvenile probation officer; and
 - (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- (b) "Intake probation" does not include formal probation.
- (46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.
- (47) "Juvenile offender" means:
- (a) a serious youth offender; or
 - (b) a youth offender.
- (48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.
- (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.
- (50) "Legal custody" means a relationship embodying:
- (a) the right to physical custody of the minor;
 - (b) the right and duty to protect, train, and discipline the minor;
 - (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
 - (d) the right to determine where and with whom the minor shall live; and
 - (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- (51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.
- (52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.
- (53) "Mental illness" means:
- (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
 - (b) the same as that term is defined in:
 - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
 - (ii) the current edition of the International Statistical Classification of Diseases and

536 Related Health Problems.

537 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

538 (a) a child; or

539 (b) an individual:

540 (i)(A) who is at least 18 years old and younger than 21 years old; and

541 (B) for whom the Division of Child and Family Services has been specifically
542 ordered by the juvenile court to provide services because the individual was an
543 abused, neglected, or dependent child or because the individual was
544 adjudicated for an offense;

545 (ii)(A) who is at least 18 years old and younger than 25 years old; and

546 (B) whose case is under the jurisdiction of the juvenile court in accordance with
547 Subsection 78A-6-103(1)(b); or

548 (iii)(A) who is at least 18 years old and younger than 21 years old; and

549 (B) whose case is under the jurisdiction of the juvenile court in accordance with
550 Subsection 78A-6-103(1)(c).

551 (55) "Mobile crisis outreach team" means the same as that term is defined in Section
552 26B-5-101.

553 (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual
554 desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
555 or the breast of a female child, or takes indecent liberties with a child as defined in
556 Section 76-5-401.1.

557 (57)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's
558 biological or adoptive parent.

559 (b) "Natural parent" includes the minor's noncustodial parent.

560 (58)(a) "Neglect" means action or inaction causing:

561 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
562 Relinquishment of a Newborn Child;

563 (ii) lack of proper parental care of a child by reason of the fault or habits of the
564 parent, guardian, or custodian;

565 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
566 necessary subsistence or medical care, or any other care necessary for the child's
567 health, safety, morals, or well-being;

568 (iv) a child to be at risk of being neglected or abused because another child in the
569 same home is neglected or abused;

- 570 (v) abandonment of a child through an unregulated child custody transfer under
571 Section 78B-24-203; or
- 572 (vi) educational neglect.
- 573 (b) "Neglect" does not include:
- 574 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
575 reason, does not provide specified medical treatment for a child;
- 576 (ii) a health care decision made for a child by the child's parent or guardian, unless
577 the state or other party to a proceeding shows, by clear and convincing evidence,
578 that the health care decision is not reasonable and informed;
- 579 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 580 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
581 maturity to avoid harm or unreasonable risk of harm, to engage in independent
582 activities, including:
- 583 (A) traveling to and from school, including by walking, running, or bicycling;
584 (B) traveling to and from nearby commercial or recreational facilities;
585 (C) engaging in outdoor play;
586 (D) remaining in a vehicle unattended, except under the conditions described in
587 Subsection 76-10-2202(2);
588 (E) remaining at home unattended; or
589 (F) engaging in a similar independent activity.
- 590 (59) "Neglected child" means a child who has been subjected to neglect.
- 591 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation
592 officer, without an adjudication of the minor's case under Section 80-6-701, upon the
593 consent in writing of:
- 594 (a) the assigned juvenile probation officer; and
- 595 (b)(i) the minor; or
- 596 (ii) the minor and the minor's parent, guardian, or custodian.
- 597 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual
598 disability or related condition, or developmental immaturity, lacks the ability to:
- 599 (a) understand the nature of the proceedings against the minor or of the potential
600 disposition for the offense charged; or
- 601 (b) consult with counsel and participate in the proceedings against the minor with a
602 reasonable degree of rational understanding.
- 603 (62) "Parole" means a conditional release of a juvenile offender from residency in secure

care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64)(a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an

adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69)(a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70)(a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a

physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor;

or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection

(78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with ~~[Subsection 53G-8-302(2)]~~ Section 53G-8-301 or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

- (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.
- (87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .
- (88) "Substitute care" means:
- (a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;
 - (b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or
 - (c) the licensing and supervision of a substitute care facility.
- (89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.
- (90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.
- (91) "Therapist" means:
- (a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or
 - (b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.
- (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.
- (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- (a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;
 - (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
 - (c) results in the situations described in Subsections (93)(a) and (b).
- (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to

conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 5. **Repealer.**

This bill repeals:

Section **53G-8-302, Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint.**

Section **53G-8-303, Investigation of complaint -- Confidentiality -- Immunity.**

Section **53G-8-304, Liability.**

Section **53G-8-305, Exception.**

Section 6. **Effective Date.**

This bill takes effect on May 7, 2025.